

STATEMENT OF
DELILAH RUMBURG
EXECUTIVE DIRECTOR
PENNSYLVANIA COALITION AGAINST RAPE
AND THE NATIONAL SEXUAL VIOLENCE RESOURCE CENTER
BEFORE THE
HOUSE COMMITTEE ON
NATIONAL SECURITY, EMERGING THREATS, AND
INTERNATIONAL RELATIONS
COMMITTEE ON GOVERNMENT REFORM
REGARDING
SEXUAL ASSAULT AND VIOLENCE AGAINST WOMEN
IN THE MILITARY AND AT THE ACADEMIES

PART I

Thank you, Mr. Chairman, for inviting me to appear before you today to discuss the work of the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies. Our Task Force has completed its report, and I know that it has been made available to you. In addition, the completed report and other related materials are available on the web site of the Sexual Assault Prevention and Response Office at www.sapr.mil.

I appreciate this opportunity to explain my personal views on these issues, but I wish to assure you that I was in full agreement with the findings and recommendations of our Task Force. That report is the best source for the results of a highly professional effort that took nearly a year. I will devote the time allotted

to me today to highlight some key results our Task Force reached, and then I would be pleased to answer your questions.

The findings and recommendations contained in our report were reached unanimously by a highly diverse group of 12 individuals, half of whom came from outside the Department of Defense. At the outset I would like to acknowledge the outstanding rapport that existed between our civilian members and the career military personnel with whom we served. I would also like to recognize Dr. Chu, the Defense Under Secretary for Personnel and Readiness, for his commitment to change and his willingness to look outside the Department of Defense for solutions to a series of intractable problems.

Let me turn now to the substantive aspects of our report. We believed strongly that the provisions of the Uniform Code of Military Justice that dealt with sexual assault needed to be modernized. Our reasons for taking this position were two-fold. First, we believed modernization was essential to improved accountability for offenders. Second, we concluded that the provisions of the Uniform Code of Military Justice needed to be better understood by the men and women who are required to live by the standards established by the Code. Modernization was essential to ensuring that the troops as well as the lawyers understand the meaning of key provisions of the Uniform Code of Military Justice. While the Department of Defense did not share our view, the Congress, in its wisdom, was not as reluctant. Accordingly, the Congress made a major stride forward and implemented our

recommendation in the National Defense Authorization Act of 2006. While these provisions will not be effective until next year, I take real satisfaction in knowing that our recommendations with respect to keeping military criminal law in step with the civilian world have been accomplished. To me these reforms are an excellent example of combining “Government expertise” with “fresh outside ideas” leading to Congressional action.

Our Task Force also believed strongly that Victim’s Advocates should be able to communicate with the victims of sexual assault in such a manner that the courts will protect the confidentiality of those communications. Several states have extended a legal privilege to those communications, and a need for such a privilege is even greater in the military. Why is this so? The reason is simply that the family or community support that is available in the civilian community is not present within military society. For the young enlisted victim, the chain of command does not provide the safe, confidential support that would be available to that same victim in civilian society.

The restricted reporting option established by the Department of Defense is a step in the right direction, but it is not a complete answer. I am also aware that the Department of Defense is studying whether to establish the privilege our Task Force sought by Executive Order in the Manual for Courts-Martial, but neither our Task Force nor I believe that such a measure will be as effective as a privilege established

by law. Accordingly, I encourage you to support such a provision through the legislative process.

As you are aware, our Task Force was committed to improving the rate at which offenders were held accountable for sexual acts of misconduct. We saw real improvement in the manner in which the Academies were approaching this issue, but we noted that the record in years prior to the tenure of Admiral Rempt or General Lennox, the Superintendents at the time of our assessment, reflected that offenders were neither consistently nor effectively held accountable for their crimes. This is an issue about which all concerned about the health of the Academies must maintain continued vigilance. The surveys and reports that Congress required from the Academies are effective tools for exercising this vigilance and measuring progress, and I encourage your support for maintaining these tools.

Our Task Force was also in strong agreement that education and training were key to progress in reducing the threat of sexual misconduct. The Academies had programs that were structured to attack the problem, but they were not well coordinated, and they were not treated as an integral part of the core curriculum. We were well aware that the demands on the time available for instructing cadets and midshipmen are almost overwhelming. Nevertheless, knowledge of the basic human values that are embodied in sexual assault education is fundamental to effective officer education. While the Academies are in agreement on this truism, the difficulty lies in developing a coordinated approach to teaching these lessons that

that is integrated throughout the four years of cadet and midshipman education. Nearly a year has passed since our report was made available to the Academies, and I look forward to hearing how they have addressed this issue.

I would also like to highlight the issue of community collaboration. Within the larger American community, those of us who have devoted substantial portions of our lives to eliminating the scourge of sexual assault understand that getting the whole community involved in attacking the problem is essential. In Annapolis there is a long-standing tradition of military cooperation with community health and law enforcement officials. We endorsed that cooperation and encouraged the Academy to formalize much of what was an informal relationship. At West Point the establishment of community collaboration is more difficult due to geography. Nevertheless, there is much to be gained by reaching out to engage civilian expertise when it is available. The principle of community collaboration is true within the larger military community as well as at the Academies, and I encourage you to support cooperative activities among military and civilian communities throughout the Armed Forces.

In conclusion, I would like to express my appreciation to the many members of the Department of Defense, uniformed and civilian, who aided and assisted our Task Force and me during the year of our efforts. We were truly committed to a common goal of eliminating sexual assault in our society. I would also like to thank my fellow Task Force members who worked so diligently to assist the Department of

Defense reach the same goal. As we noted in our report, eliminating sexual harassment and assault is not a “fix and forget” problem. Vigorous, thoughtful, sustained effort is essential to success.

I would like to call your attention to Part II of my testimony. This section reflects what I have observed, as well as heard from many of my constituents throughout the country regarding the current response to sexual violence in the military. I offer to you some recommendations for your consideration.

PART II

Over the duration of the past year, and in response to my invitation to present testimony before this Committee, I have been afforded the opportunity to speak with military personnel and sexual violence advocates who have identified challenges, as well as opportunities in working to address the crime of sexual violence. I would like to begin by identifying several positive issues that have been noted by some of my civilian peers:

- 1. “There has been a positive response from the large majority of soldiers (from every level) that this program exists and is attempting to do the right thing for soldiers.”**
- 2. “The education and awareness provided to soldiers about sexual assault and rape has been beneficial from the evaluations received.”**
- 3. “This is a good stepping stone and foundation for working within the military for victims of sexual assault. Due to this initiative, other areas of need and support have been identified that may have been grossly overlooked without the initiation of the Sexual Assault Prevention and Response Program.”**
- 4. “The education and training provided during Unit Victim Advocate (UVA) and Deployed Sexual Assault Response Coordinator (DSARC) training seems to be bridging a gap between the “us and them” attitude from several perspectives; people are beginning to realize this is a community and a cultural problem we need to address together.”**

5. “Systems issues from local level to state and national levels are being identified and worked on.”
6. “This program is bridging a gap with civilian and military providers and bringing forth collaborations that had not been formed before.”

Let me also outline consistent and identified concerns for the purpose of urging solutions that provide remedies in supporting and sustaining the response to sexual violence. These are as follows:

Military Branches have different protocols:

The new Military regulations tell installations and commands what they must do but not how to do it. The Navy revised their long-standing sexual assault response to meet Department of Defense regulations but their response is not consistent with the Air Force. (e.g., Navy permits civilian responders and Air Force Base does not permit civilian advocates) Additionally, if a Navy victim is seen at an AFB hospital, AFB regulations state an Air Force SARC must respond, rather than a Navy SARC.

⇒ *Recommendation: There needs to be consistency in regulations throughout, or, at the least permit victims to choose SARCs from their own branch of service.*

Ironically, SARCs are willing to collaborate among services, but the military service housing the hospital dictates protocol; hence, victims are caught in the middle of different military service regulations.

Recommendation: Standardized protocol among services.

Clash between State Law and Military Law:

Healthcare professionals in mandatory reporting states (e.g., Utah, Oklahoma, California, etc.) are required to notify law enforcement when a sexual assault victim presents at a civilian hospital. *The question that remains unanswered is, “What law takes precedence - restricted reporting in military or the state’s mandatory reporting statute?”*

Similarly, there has been confusion as to which law enforcement entity (civilian and/or military) needs to be summoned when active duty military are sexually assaulted off base.

⇒ *Recommendation to consider: Can there be a protocol developed that would be legally sufficient for state law purposes of reporting that would allow the report be made to SARC’s?*

⇒ *Can states’ Attorney’s General work with military lawyers to develop a reporting requirement that could preserve restrictive reporting without having to change state statutes?*

Restricted Reporting Option “loopholes”:

Restricted reporting is kept intact when victims report to SARC, medical or chaplaincy. However, if victims go to their supervisors (who are reporting officials) and reference sexual assault, their restricted reporting options are destroyed since supervisors are required to report. For example, victims or victims’ friends could approach the supervisor indicating they need to seek medical attention but may feel obligated to tell them why (which destroys the restricted reporting option).

⇒ *Recommendation: The services need to prescribe a protocol for these situations.*

Emergency Contraception (EC):

Women have gone to a civilian hospital for Emergency Contraception (EC) or the morning after pill; not associated with a sexual assault. When victims ask for EC, this has immediately activated a sexual assault response team.

⇒ *Recommendation: The military needs to prescribe procedures for Emergency Contraception for sexual assault and non-sexual assault.*

Training:

It is important that the person in the SARC role be skilled in interpersonal violence before being put in the position. DOD has done comprehensive training for SARCs in the psychosocial realm, but SARCs need more information on anatomy, physiology, injury patterns, and medical needs of survivors.

⇒ *Recommendation: Provide SARCs with needed information and training on anatomy, physiology, injury patterns, and the medical needs of survivors.*

Civilian Funding Concerns:

Local rape crisis programs and state sexual assault coalitions are eager to assist and work with sexual assault victims and military installations. However, nationally funds for services continue to diminish for rape crisis programs. Requests for services, training, travel expenses and materials for military installations is unfunded.

⇒ *Recommendation: Develop a mechanism for military commands to contract with civilian providers to cover costs for time for training and travel expenses, materials as well as other costs identified necessary to be able to work effectively within the MOU's.*

NCIS (Naval Criminal Investigation Services) needs to be audited. A prominent investigator told a training class that in his 22 years as an investigator, there were 200 sexual assault cases and only six were 'real rapes'....all the others were regrettable sex acts.

⇒ *Recommendation: Audit NCIS and also speak to victims. The Department of Defense needs to get a handle on what really is happening at the investigative end of things.*

JAGs seemed to have the least experience and specialized training in handling sexual assault cases. They are not familiar with medical terminology, forensic issues, or the role of the forensic examiner in sex crimes cases. They are not knowledgeable about trial preparation with medical witnesses, nor strategies of questioning to enable the medical witness to give the most complete and accurate testimony, or the use of exhibits such as drawing to demonstrate anatomical landmarks and injury location. The JAGs were not very effective at redirecting the medical witnesses' testimony or objecting appropriately.

⇒ *Recommendation: Highly recommend that the JAGs be targeted as a group for some very specific training regarding preparing and trying sex crimes cases.*